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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Albania,* Austria, Belgium,* Bulgaria,* Canada,* Croatia,* Cyprus,* Denmark,* Estonia, Finland,* France, Georgia,* Germany, Greece,* Hungary,* Iceland,* Ireland, Italy, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Mauritius,* Montenegro, Netherlands,* Norway,* Poland,* Portugal,* Romania, Saint Kitts and Nevis,* Sierra Leone, Slovakia,* Spain,* Sweden,* Switzerland,* the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

25/... Promoting reconciliation, accountability and human rights in Sri Lanka

The Human Rights Council,

Reaffirming the purposes and principles of the Charter of the United Nations,

Guided by the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant instruments,

Bearing in mind General Assembly resolution 60/251 of 15 March 2006,

Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders, of 18 June 2007,

Recalling also Human Rights Council resolutions 19/2 of 22 March 2012 and 22/1 of 21 March 2013 on promoting reconciliation and accountability in Sri Lanka,

Reaffirming its commitment to the sovereignty, independence, unity and territorial integrity of Sri Lanka,

Reaffirming also that it is the responsibility of each State to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population,

* Non-Member State of the Human Rights Council.

Reaffirming further that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, as applicable,

Reaffirming that all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity, in a peaceful and unified land,

Welcoming and acknowledging the progress made by the Government of Sri Lanka in rebuilding infrastructure, demining and resettling the majority of internally displaced persons, while noting nonetheless that considerable work lies ahead in the areas of justice, reconciliation, land use and ownership, the resumption of livelihoods and the restoration of normality to civilian life, and stressing the importance of the full participation of local populations, including representatives of civil society and minorities, in these efforts,

Welcoming the successful holding of Provincial Council elections on 21 September 2013 and, in particular, the high turnout and participation in all three provinces, while noting with concern reports of election-related violence, as well as of voter and candidate intimidation,

Expressing appreciation for the efforts and cooperation of the Government of Sri Lanka in facilitating the visit of the United Nations High Commissioner for Human Rights and providing her with open access, and welcoming the visit of the High Commissioner to Sri Lanka in August 2013,

Expressing deep concern at reported intimidation and retaliation against civil society members who engage with United Nations human rights mechanisms, including those who met with the High Commissioner during her visit,

Expressing serious concern at the continuing reports of violations of human rights in Sri Lanka, including sexual and gender-based violence, enforced disappearances, extrajudicial killings, torture and violations of the rights to freedom of expression, association and peaceful assembly, threats to judicial independence and the rule of law, as well as intimidation of and reprisals against human rights defenders, members of civil society, lawyers and journalists,

Alarmed at the significant surge in attacks against members of religious minority groups in Sri Lanka, including Hindus, Muslims and Christians,

Calling upon the Government of Sri Lanka to fulfil its public commitments, including on the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population,

Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka, its findings and recommendations, and acknowledging its possible contribution to the process of meaningful national reconciliation in Sri Lanka,

Recalling the constructive recommendations contained in the Commission's report, including the need to credibly investigate widespread allegations of extrajudicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all persons and enact rule of law reforms,

Taking note of the national plan of action to implement the recommendations of the Lessons Learnt and Reconciliation Commission of the Government of Sri Lanka and its commitments as set forth in response to the findings and recommendations of the Commission,

Noting that the national plan of action does not adequately address all of the findings and constructive recommendations of the Commission, and encouraging the Government of Sri Lanka to broaden the scope of the plan to adequately address all elements of the Commission's report,

Noting with concern that the national plan of action and the Commission's report do not adequately address serious allegations of violations of international human rights law and international humanitarian law,

Emphasizing the importance of a comprehensive approach to transitional justice incorporating the full range of judicial and non-judicial measures, including, inter alia, individual prosecutions, reparations, truth-seeking, institutional reform, vetting of public employees and officials, or an appropriately conceived combination thereof, in order to, inter alia, ensure accountability, serve justice, provide remedies to victims, promote healing and reconciliation, establish independent oversight of the security system, restore confidence in the institutions of the State and promote the rule of law in accordance with international human rights law, with a view to preventing the recurrence of violations and abuses,

Underlining that truth-seeking processes, such as truth and reconciliation commissions, that investigate patterns of past human rights violations and their causes and consequences are important tools that can complement judicial processes, and that, when established, such mechanisms have to be designed within a specific societal context and be founded on broad national consultations with the inclusion of victims and civil society, including non-governmental organizations,

Recalling the responsibility of States to comply with their relevant obligations to prosecute those responsible for gross violations of human rights and serious violations of international humanitarian law constituting crimes under international law, with a view to end impunity,

Recalling also the High Commissioner's conclusion that national mechanisms have consistently failed to establish the truth and to achieve justice, and her recommendation that the Human Rights Council establish an international inquiry mechanism to further investigate the alleged violations of international human rights law and international humanitarian law and monitor any domestic accountability processes,

Encouraging the Government of Sri Lanka to increase its dialogue and cooperation with the Office of the High Commissioner, including with regard to technical assistance,

1. *Welcomes* the oral update presented by the United Nations High Commissioner for Human Rights to the Human Rights Council at its twenty-fourth session[1] and the subsequent report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka[2] and the recommendations and conclusions contained therein, including on the establishment of a truth-seeking mechanism and national reparations policy as an integral part of a more comprehensive and inclusive approach to transitional justice;

2. *Calls upon* the Government of Sri Lanka to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law, as applicable; to hold accountable those responsible for such violations; to end continuing incidents of human rights violations and abuses in Sri

[1] See A/HRC/24/CRP.3/Rev.1.

[2] A/HRC/25/23.

Lanka; and to implement the recommendations made in the reports of the Office of the High Commissioner;

3. *Reiterates its call upon* the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission, and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans;

4. *Urges* the Government of Sri Lanka to investigate all alleged attacks, by individuals and groups, on journalists, human rights defenders, members of religious minority groups and other members of civil society, as well as on temples, mosques and churches, and also urges the Government to hold perpetrators of such attacks to account and to take steps to prevent such attacks in the future;

5. *Calls upon* the Government of Sri Lanka to release publicly the results of its investigations into alleged violations by security forces, including the attack on unarmed protesters in Weliweriya on 1 August 2013, and the report of 2013 by the court of inquiry of the Sri Lanka Army;

6. *Encourages* the Government of Sri Lanka to ensure that all Provincial Councils, including the Northern Provincial Council, are able to operate effectively, in accordance with the 13th amendment to the Constitution of Sri Lanka;

7. *Welcomes* the visit by the Special Rapporteur on the human rights of internally displaced persons in December 2013, and calls upon the Government of Sri Lanka to facilitate the effective implementation of durable solutions for internally displaced persons, including the long-term displaced;

8. *Also welcomes* the invitation to the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the right to education;

9. *Encourages* the Government of Sri Lanka to cooperate with other special procedures mandate holders and to respond formally to their outstanding requests, including long-standing requests;

10. *Takes note* of the recommendations and conclusions of the High Commissioner regarding ongoing human rights violations and the need for an international inquiry mechanism in the absence of a credible national process with tangible results, and requests the Office of the High Commissioner:

(*a*) To monitor the human rights situation in Sri Lanka and to continue to assess progress on relevant national processes;

(*b*) To undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka during the period covered by the Lessons Learnt and Reconciliation Commission, and to establish the facts and circumstances of such alleged violations and of the crimes perpetrated with a view to avoiding impunity and ensuring accountability, with assistance from relevant experts and special procedures mandate holders;

(*c*) To present an oral update to the Human Rights Council at its t enty-seventh session, and a comprehensive report followed by a discussion on the implementation of the present resolution at its twenty-eighth session;

11. *Encourages* the Office of the High Commissioner and relevant special procedures mandate holders to provide, in consultation with and with the concurrence of the Government of Sri Lanka, advice and technical assistance on implementing the above-mentioned steps;

12. *Calls upon* the Government of Sri Lanka to cooperate with the Office of the High Commissioner in the implementation of the present resolution.